



STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

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BEFORE THE PUBLIC DISCLOSURE COMMISSION  
OF THE STATE OF WASHINGTON

IN THE MATTER OF ENFORCEMENT	)	Notice of Administrative
ACTION AGAINST	)	Charges
	)	
American Cancer Society	)	PDC Case No. 04-446
Northwest States, Great West Division	)	
	)	
Respondent.	)	
	)	

IT IS ALLEGED as follows:

**I. JURISDICTION**

Jurisdiction of this proceeding is based on Chapter 42.17 RCW, the Public Disclosure Act, Chapter 34.05, Administrative Procedure Act, and Title 390 WAC. These charges incorporate the Report of Investigation and all of its exhibits, the Addendum to the Report of Investigation and all of its exhibits, and the Summary of Report of Investigation, by reference.

**II. ALLEGATIONS**

Staff alleges, based on the facts specified in Section III, that the American Cancer Society, Northwest States, Great West Division (American Cancer Society), violated RCW 42.17.200 as follows:

1. By failing to timely report grass roots lobbying expenses totaling \$64,195 for January and February 2004 as follows:
  - American Cancer Society's January 2004 grass roots lobbying expenses totaled \$22,124 and the report disclosing them was due on February 12, 2004. The report was filed 70 days late on April 22, 2004. The expenditures included \$11,250 for

*"The public's right to know of the financing of political campaigns and lobbying  
and the financial affairs of elected officials and candidates far outweighs  
any right that these matters remain secret and private."*

RCW 42.17.010 (10)



television expenses and \$10,874 for brochures, signs, printing, mailing, consultants, salaries, travel and office expenses.

- American Cancer Society's February 2004 grass roots lobbying expenses totaled \$42,071 and the report disclosing them was due on March 10, 2004. The report was filed 43 days late on April 22, 2004. The expenditures included \$37,350 for television expenses and \$4,721 for consultants, office expenses, travel and salaries.
2. By failing to report the receipt of \$15,000 from the American Lung Association of Washington and \$15,000 from the American Heart Association as contributions to help pay for the grass roots lobbying expenditures of the American Cancer Society. The contributions were received in February 2004 and the report disclosing them was due on March 10, 2004. The contributions were reported by letter 153 days late on August 10, 2004.

### **III. FACTS SUPPORTING ALLEGATIONS**

1. On January 12, 2004, companion bills HB 1868 and SB 5791 were introduced into the 2004 Washington State Legislature. The proposed legislation acted to ban smoking in public places, including bars, taverns, and bowling alleys, and to repeal sections of state law which formerly permitted the designation of smoking and non-smoking areas in public places. The legislation also allowed local government to adopt more restrictive ordinances to further restrict smoking in public places. HB 1868 and SB 5791 failed to pass during the 2004 legislative session.

2. In January of 2004, advertisements presenting a program addressed to the public, a substantial portion of which was intended, designed or calculated primarily to influence state legislation were aired on television stations in Washington State. These expenses were "grass roots lobbying expenses" and were required to be reported on PDC form L-6 within thirty days after the start of the campaign, which began January 12, 2004 and continued through February 29, 2004 at a cost of \$48,600. Of this total, January television expenses totaled \$11,250 and February television expenses totaled \$37,350. Some of the advertisements, which featured

former U.S. Surgeon General C. Everett Coop, stated that they had been sponsored by the Washington BREATHE Alliance, a reference to a loose knit umbrella group of five like minded health organizations, including the American Cancer Society, who shared a common interest of eliminating second-hand smoke in all indoor public places. The American Cancer Society paid for the television ads and had an obligation to report the expenses.

3. The ads, known as the "C. Everett Koop television ads" that aired during the 2004 legislative session were addressed to the public, and were intended, designed or calculated primarily to influence state legislation, by encouraging public support of HB 1868 and SB 5791. There were four versions of the ads. Three versions of the ads constituted reportable grass roots lobbying, and cost \$48,600. The text of the three ads are stated below:

- The "It's Time to Act" ad stated, *"Secondhand smoke is a killer. There is a historic opportunity in Washington to eliminate secondhand smoke from all indoor public places. We protect office workers from toxic smoke. Why not protect all workers. Everyone has the right to breathe clean indoor air. ...and the fact is it's good for business, revenues go up, jobs are created as more people go out to enjoy smokefree places. It's time for our leaders to act. It's your right."*
- The "It's Your Right" ad stated, *"Secondhand smoke is a killer. There is a historic opportunity in Washington to eliminate secondhand smoke from all indoor public places. We protect office workers from toxic smoke. Why not protect all workers. Everyone has the right to breathe clean indoor air. ...and the fact is it's good for business, revenues go up, jobs are created as more people go out to enjoy smokefree places. Smokefree. It's your right."*
- The "Hotline" ad stated, *"Secondhand smoke is a killer. There is a historic opportunity in Washington to eliminate secondhand smoke from all indoor public places. We protect office workers from toxic smoke."*

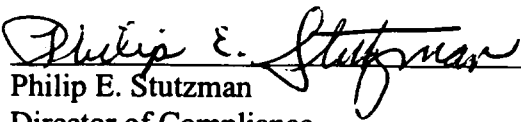
*Why not protect all workers. Everyone has the right to breathe clean indoor air. ...and the fact is it's good for business, revenues go up, jobs are created as more people go out to enjoy smokefree places. Call the legislature. Demand smokefree indoor public places."*

The "It's Your Right" ad ran 11 times in January and 26 times in February. At the same time, the "It's Time to Act" ad ran 39 times in January and 78 times in February. In addition, the "Hotline" ad ran 62 times in February. Thus, two of the ads ran at the same time in January, and all three ran at the same time in February. The ads ran as a group and by virtue of their content and timing, were intended to influence state legislation, HB 1868 and SB 5791.

4. David Delvallee, Advocacy Director for the American Cancer Society, acknowledged by letter and on PDC form L-6 that in addition to the television ads, the American Cancer Society spent \$10,874 in January 2004 and \$4,721 in February 2004 on grass roots lobbying expenses, primarily for brochures, signs, printing and consultants.

5. The American Cancer Society received \$15,000 from the American Lung Association of Washington and \$15,000 from the American Heart Association in February 2004 to help pay for its grass roots lobbying expenditures. However, the L-6 reports originally filed by the American Cancer Society did not list the receipt of any contributions to help pay for the grass roots lobbying expenses. Kevin Knox, an employee of the American Cancer Society, acknowledged receipt of the contributions for the purpose of supporting the grass roots lobbying efforts of the American Cancer Society and reported receipt of the contributions by letter 153 days late on August 10, 2004.

RESPECTFULLY SUBMITTED this 26<sup>th</sup> day of May, 2005.

  
Philip E. Stutzman  
Director of Compliance

Relevant Statutes

RCW 42.17.200 states in part: “(1) Any person who has made expenditures, not reported by a registered lobbyist under RCW 42.17.170 or by a candidate or political committee under RCW 42.17.0765 or 42.17.080, exceeding five hundred dollars in the aggregate within any three-month period or exceeding two hundred dollars in the aggregate within any one-month period in presenting a program addressed to the public, a substantial portion of which is intended, designed, or calculated primarily to influence legislation shall be required to register and report, as provided in subsection (2) of this section, as a sponsor of a grass roots lobbying campaign.<sup>1</sup> (2) Within thirty days after becoming a sponsor of a grassroots lobbying campaign, the sponsor shall register by filing with the commission a registration statement, in such detail as the commission shall prescribe...”

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<sup>1</sup> The dollar amount has been adjusted for inflation per WAC 390-20-125 to \$1,000 incurred within any three-month period or \$500 incurred within any one-month period.